S.B. CRIMINAL REVISION PETITION NO. 981/2007
Guna Ram Vs. State of Rajasthan & Ors.

DATE OF ORDER : 5.12.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. R.K. Soni, for the petitioner/s.
Mr. V.R. Mehta, Public Prosecutor.
Mr. Rakesh Arora, for the non-petitioners.

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This petition under Section 397 read-with Section 401 Cr.P.C. is preferred for enhancement of sentence awarded to accused-respondents by the judgment dated 10.7.2006 passed by the learned Addl. Sessions Judge (Fast Track) No.1, Pali. By the judgment aforesaid the accused respondents were found guilty for commission of offences under Sections 307 and 307/34 IPC. Learned trial court sentenced the respondents with the term as follows:

Jagidsh S/o Ratanlal

U/s 447 IPC : One month's simple imprisonment

U/s 307 : Five years rigorous imprisonment and a fine of Rs.1000/- and in default of payment of fine to further undergo one month's SI.

Mahendra and Sita

U/s 447 IPC : One month's simple imprisonment.

U/s 307/34 IPC : Five years rigorous imprisonment and a fine of Rs.1000/- and in default of payment of fine to further undergo one month's SI.

The contention of learned counsel for the petitioner is that the sentence awarded by learned trial court is not commensurating tot he guilt established. It is asserted that the respondents admittedly gave a blow that was sufficient to cause death of Bhanwar Lal, nephew of the petitioner, and thus, they should have been punished by maximum sentence prescribed for commission of offence under Section 307 IPC. To substantiate the contention reliance is placed by learned counsel for the petitioner upon the judgment of Hon'ble Supreme Court in the case of Adu Ram Vs. Mukna & Ors. holding therein that, "imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime, e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order, and public interest, cannot be lost sight of and as per se require exemplary treatment. Any liberal attitude by imposing meager sentences or taking too sympathetic view merely on account of lapse of time is respect of such offences will be result-wise counter productive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence in built in the sentencing system."

Heard counsel for the parties.

No dispute about the preposition that imposition of sentence without considering its effect on the social order may against the public interest, thus, every court is having a duty to award proper sentence. A broad discretion is available to the court to determine proper sentence on basis of available facts. In the present case learned trial court found the respondents guilty for commission of offence punishable under Section 307 IPC. The court, accordingly, imposed sentence by

considering various factors including the young age of Mahendra and Jagdish and also the fact that Sita (mother of Jagdish and Mahendra) is a widow and is suffering continuous ailment. From facts it is also apparent that the respondents-accused persons are not habitual offenders or criminals by nature but are coming from a family of peasants and whatever dispute arose that was due to spontaneous provocation.

In these circumstances, I do not find any just reason to interfere with the order impugned. The revision petition is accordingly dismissed.

(GOVIND MATHUR),J.

J.G.